



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 9276-98
14 December 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) SECNAVINST 1910.4B

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his narrative reason for separation be changed.

2. The Board, consisting of Ms. Hare, Ms. LeBlanc, and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 30 November 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps on 30 April 1998 at the age of 19 and served without disciplinary infractions.

d. On 3 June 1998, after undergoing a medical examination, Petitioner was diagnosed with a depressive disorder. The medical examiner noted, in part, that Petitioner's condition existed prior to his enlistment.

e. On 11 June 1998 Petitioner was issued an uncharacterized entry level separation by reason of fraudulent enlistment which was based solely on his preexistent depressive disorder.

f. Petitioner contends that he was unaware of any mental and/or medical condition at the time of enlistment, and that he had never been diagnosed with any such condition. He further contends that he was not diagnosed with a depressive disorder until after he enlisted.

g. Petitioner submitted documentation with his application from a Naval Reserve staff psychologist which notes, in part, as follows:

(Patient) was evaluated on 2 June 1998 and diagnosed with depressive disorder, not otherwise specified. Although his condition was rendered as existing prior to enlistment, he was not cognizant of his mental disorder. There is no record of prior treatment or diagnosis. Based on my review of his past history and psychological interview, there was no intent by him to conceal information.

h. Petitioner also submitted a letter in which a medical physician noted, in part, as follows:

(Patient) has been a regular patient of mine since February 1992. Of all the times that I have seen him, I have never seen any signs of clinical depression. There never have been any indications for me to refer him to a psychologist or psychiatrist.

i. In accordance with reference (b), an individual may be separated by reason of best interest of the service when separation is warranted, but no other reason for separation is appropriate.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board notes the documentation submitted with Petitioner's application from a Naval Reserve staff psychologist and Petitioner's personal physician, and believes that Petitioner was unaware of his depressive disorder at the time of his enlistment, and therefore was not fraudulent in his enlistment when this information was not disclosed. Accordingly, the Board concludes that the reason for separation now of record, fraudulent enlistment, is improper, and should be changed to best interest of the service. Although Petitioner might properly have been processed for separation by reason of erroneous enlistment, the Board declines to correct the record to show this reason for separation since he was not notified of processing for that

reason. Accordingly, the Board concludes that best interest of the service is now the only appropriate reason for separation.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 11 June 1998, he was separated by reason of best interest of the service vice by reason of fraudulent enlistment.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive director